

#### § 1465.4

design, materials, equipment, installation, labor, maintenance, management, or training, as well as the estimated income foregone by the producer for the designated conservation practices.

*Person* means, as defined in 7 CFR part 1400, an individual, natural person and does not include a legal entity.

*Producer* means a person, legal entity, joint operation, or Indian Tribe that has an interest in the agricultural operation, according to 7 CFR part 1400, or who is engaged in agricultural production or forestry management.

*Resource concern* means a specific natural resource problem that represents a significant concern in a State or region and is likely to be addressed successfully through the implementation of the conservation practices by participants.

*Secretary* means the Secretary of USDA.

*Socially disadvantaged farmer or rancher* means a farmer or rancher who has been subjected to racial or ethnic prejudices because of their identity as a member of a group without regard to their individual qualities.

*State Conservationist* means the NRCS employee authorized to direct and supervise NRCS activities in a State, Caribbean Area, or Pacific Islands Area.

*Structural practice* means a conservation practice, including a vegetative practice, that involves establishing, constructing, or installing a site-specific measure to conserve and protect a resource from degradation, or improve soil, water, air, or related natural resources in the most cost-effective manner. Examples include, but are not limited to, animal waste management facilities, terraces, grassed waterways, tailwater pits, livestock water developments, contour grass strips, filterstrips, critical area plantings, tree plantings, establishment or improvement of wildlife habitat, and capping of abandoned wells.

*Technical assistance* means technical expertise, information, and tools necessary for the conservation of natural resources on land active in agricultural, forestry, or related uses. The term includes the following:

(1) Technical services provided directly to farmers, ranchers, and other

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eligible entities, such as conservation planning, technical consultation, and assistance with design and implementation of conservation practices; and

(2) Technical infrastructure, including activities, processes, tools, and agency functions needed to support delivery of technical services, such as technical standards, resource inventories, training, data, technology, monitoring, and effects analyses.

*Technical Service Provider (TSP)* means an individual, private-sector entity, or public agency certified by NRCS to provide technical services to program participants or in lieu of, or on behalf of NRCS.

#### § 1465.4 National priorities.

(a) The Chief, with advice from State Conservationists, will identify national priorities to achieve the conservation objectives of AMA.

(b) National priorities will be used to guide annual funding allocations to States. (c) State Conservationists will use national priorities in conjunction with State and local priorities to prioritize and select AMA applications for funding.

(d) NRCS will undertake periodic reviews of the national priorities and the effects of program delivery at the State and local levels to adapt the program to address emerging resource issues.

#### § 1465.5 Program requirements.

(a) Participation in AMA is voluntary. The participant, in cooperation with the local conservation district, applies for practice installation for the agricultural operation. NRCS provides payments through contracts to apply needed conservation practices within a time schedule specified in the APO.

(b) The Chief determines the funds available for financial assistance according to the purpose and projected cost for which the financial assistance is provided in a fiscal year. The Chief allocates the funds available to carry out AMA in consideration of national priorities established under § 1465.4.

(c) To be eligible to participate in AMA, an applicant must:

(1) Own or operate an agricultural operation within an applicable State, as listed in 1465.1;

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(2) Provide NRCS with written evidence of ownership or legal control for the life of the proposed contract, including the O&M agreement. An exception may be made by the Chief:

(i) In the case of land allotted by the BIA, Tribal land, or other instances in which the Chief determines that there is sufficient assurance of control; or

(ii) If the applicant is a tenant of the land involved in agricultural production, the applicant will provide NRCS with the written concurrence of the landowner in order to apply a structural practice(s);

(3) Submit an application form NRCS-CPA-1200;

(4) Agree to provide all information to NRCS determined to be necessary to assess the merits of a proposed project and to monitor contract compliance;

(5) Provide a list of all members of the legal entity and embedded entities along with members' tax identification numbers and percentage interest in the entity. Where applicable, American Indians, Alaska Natives, and Pacific Islanders may use another unique identification number for each individual eligible for payment;

(6) With regard to contracts with Indian Tribes or Indians represented by the BIA, payments if a BIA or Tribal official certify in writing that no one individual, directly or indirectly, will receive more than the payment limitation. The Tribal entity must also provide, annually, a listing of individuals and payments made by social security or tax identification number or other unique identification number, during the previous year for calculation of overall payment limitations. The BIA or Tribal entity must also provide, at the request of NRCS, proof of payments made to the person or legal entity that incurred costs or sacrificed income related to conservation practice implementation.

(7) Supply other information, as required by NRCS, to determine payment eligibility as established by 7 CFR part 1400, Adjusted Gross Income;

(8) With regard to any participant that utilizes a unique identification number as an alternative to a tax identification number, the participant will utilize only that identifier for any and all other AMA contracts to which the

participant is a party. Violators will be considered to have provided fraudulent representation and be subject to full penalties of §1465.25;

(9) States, political subdivisions, and entities thereof will not be persons eligible for payment. Any cooperative association of producers that markets commodities for producers will not be considered to be a person eligible for payment;

(10) Be in compliance with the terms of all other USDA-administered conservation program agreements to which the participant is a party; and

(11) Develop and agree to comply with an APO and O&M agreement, as described in §1465.3.

(d) Land may only be considered for enrollment in AMA if NRCS determines that the land is:

(1) Privately owned land;

(2) Publicly owned land where:

(i) The land is a working component of the participant's agricultural and forestry operation; and

(ii) The participant has control of the land for the term of the contract; and

(iii) The conservation practices to be implemented on the public land are necessary and will contribute to an improvement in the identified resource concern; or

(3) The land is Indian land.

### § 1465.6 AMA plan of operations.

(a) All conservation practices in the APO must be approved by NRCS and developed and carried out in accordance with the applicable NRCS technical guidance.

(b) The participant is responsible for implementing the APO.

(c) The APO must include:

(1) A description of the participant's specific conservation and environmental objectives to be achieved;

(2) To the extent practicable, the quantitative or qualitative goals for achieving the participant's conservation and environmental objectives;

(3) A description of one or more conservation practices in the conservation system, including conservation planning, design, or installation activities to be implemented to achieve the conservation and environmental objectives;